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CIVIL FORFEITURE ACT

[RSBC 2024] CHAPTER 1

Deposited with Clerk of the Legislative Assembly on May 16, 2024

Part 1 — Interpretation

Definitions

1 (1) In this Act:

"**business day**" means a day on which the court registries are open for business;

"**corporation**" means a corporation as defined in [section 1](#) of the *Business Corporations Act*;

"**court**" means the Supreme Court;

"**director**" means a person who is designated as director under [section 66 \(1\)](#);

"**financed vehicle**" means personal property that is serial numbered goods and that is subject to a specified security interest in the whole or a portion of an interest in the personal property;

"**forfeiture order**" means a court order made under [section 6 \(1\) or \(2\)](#);

"**instrument of unlawful activity**" means any of the following:

- (a) property that has been used to engage in unlawful activity that, in turn,
 - (i) resulted in or was likely to result in the acquisition of property or an interest in property,
 - (ii) caused serious bodily harm to a person, or
 - (iii) could have resulted in serious bodily harm to a person;

(ii) cause serious bodily harm to a person,

- (c) property that is realized from the disposition of property described in paragraph (a) or (b);

"interest in property" or **"interest in the property"** means a right, a title, an interest, an estate or a claim to or in property;

"interim preservation order" means a court order made under section 9 (4);

"limited partnership" means a limited partnership

- (a) formed under [section 51](#) [*formation of limited partnership*] of the [Partnership Act](#), or
- (b) registered under [section 80](#) [*limited partnerships formed outside British Columbia*] of the [Partnership Act](#);

"personal property registry" means the personal property registry established under the [Personal Property Security Act](#);

"proceeds of unlawful activity" means any of the following:

- (a) the whole or a portion of an interest in property if the whole or the portion of the interest, as the case may be, is acquired directly or indirectly as a result of unlawful activity;
- (b) the whole or a portion of an interest in property that is equivalent in value to the amount of an increase in value of the whole or the portion of the interest in property if the increase in value results directly or indirectly from unlawful activity;
- (c) the whole or a portion of an interest in property that is equivalent in value to the amount of a decrease in a debt obligation secured against the interest or the portion of the interest in property, if the decrease in debt obligation results directly or indirectly from unlawful activity;
- (d) property that is realized from the disposition of the whole or a portion of an interest in property described in paragraph (a), (b) or (c);

"property" means a parcel of real property or tangible or intangible personal property and, for greater certainty, includes cash;

"protection order" means an order made by a court under section 27 (1);

"public body", except in [section 67](#) [*powers, duties and functions of director*] and Division 1 of Part 6 [*Interests in Property and Financed Vehicles*], means any of the following:

- (a) Canada, a province or another jurisdiction in or outside Canada with which the director has entered into an information-sharing agreement under section 67 (4) (a);
- (b) a public body as defined in the [Freedom of Information and Protection of Privacy Act](#);

"respondent" means a person in respect of whom an unexplained wealth order is sought or made, other than a responsible officer;

"responsible officer" means the following:

- (a) in the case of a respondent that is a corporation, an individual who is a director, as defined in [section 1](#) of the *Business Corporations Act*, or senior officer of the corporation;
- (b) in the case of a respondent that is a limited partnership,
 - (i) an individual who is a general partner in the limited partnership, or
 - (ii) an individual who is a responsible officer in relation to a corporation or a partnership that is a general partner in the limited partnership;
- (c) in the case of a respondent that is a partnership other than a limited partnership,
 - (i) an individual who is a partner in the partnership, or
 - (ii) an individual who is a responsible officer in relation to a corporation or a partnership that is a partner in the partnership;
- (d) a prescribed individual or an individual in a prescribed class;

"security interest" means security interest as defined in the *Personal Property Security Act*;

"senior officer", in relation to a corporation, means a senior officer as defined in [section 1](#) of the *Business Corporations Act*;

"serial numbered goods" means a motor vehicle, manufactured home, boat, outboard motor, trailer or aircraft;

"specified interest holder", in relation to a financed vehicle, means a person who

- (a) at the time forfeiture is initiated in relation to the vehicle or the whole or a portion of an interest in the vehicle under [section 32](#) [*notice of forfeiture under Part 4*], holds a specified security interest in the vehicle or the whole or the portion of the interest in the vehicle, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of forfeiture under this Act;

"specified security interest", in relation to a financed vehicle, means a security interest

- (a) taken in the vehicle or the whole or a portion of an interest in the vehicle for one or more of the following purposes:
 - (i) to secure payment of all or part of the purchase price of the vehicle;
 - (ii) to secure payment of a financed debt obligation;
 - (iii) a prescribed purpose, and
- (b) in respect of which a financing statement containing a description of the vehicle by serial number is registered in the personal property registry,

and does not include

(d) a prescribed security interest;

"**unexplained wealth order**" means a court order made under [section 24](#);

"**uninvolved interest holder**" means a person who

- (a) owns, at the time of application for an order under [section 3](#) [*application for forfeiture order*], the whole or a portion of an interest in property that is an instrument of unlawful activity, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of the application referred to in paragraph (a);

"**unlawful activity**" means an act or omission described in one of the following paragraphs:

- (a) if an act or omission occurs in British Columbia, the act or omission, at the time of occurrence, is an offence under an Act of Canada or British Columbia;
- (b) if an act or omission occurs in another province of Canada, the act or omission, at the time of occurrence,
 - (i) is an offence under an Act of Canada or the other province, as applicable, and
 - (ii) would be an offence in British Columbia, if the act or omission had occurred in British Columbia;
- (c) if an act or omission occurs in a jurisdiction outside of Canada, the act or omission, at the time of occurrence,
 - (i) is an offence under an Act of the jurisdiction, and
 - (ii) would be an offence in British Columbia, if the act or omission had occurred in British Columbia,

but does not include an act or omission that is an offence

- (d) under a regulation of a corporation, or
- (e) under an enactment of any jurisdiction if the enactment or the jurisdiction is prescribed under this Act.

(2) For the purpose of the definition of "proceeds of unlawful activity", "**equivalent in value**" means equivalent in value as determined or established by the regulations.

(3) A person who indirectly engaged in the unlawful activity that is the basis of the application referred to in paragraph (a) of the definition of "uninvolved interest holder" includes, without limitation, a person who had knowledge of the unlawful activity and received a financial benefit from the unlawful activity.

Application

- 2 (1) This Act applies to an unlawful activity occurring before, on or after the date this section comes into force.
- (2) This Act applies to proceeds of unlawful activity, whether or not

(c) the decrease in the debt obligation,
as referred to in the definition of "proceeds of unlawful activity", occurred before, on or after the coming into force of this Act.

Part 2 — Forfeiture Orders

Application for forfeiture order

- 3** (1) The director may apply to the court for an order forfeiting to the government
- (a) the whole of an interest in property that is proceeds of unlawful activity, or
 - (b) the portion of an interest in property that is proceeds of unlawful activity.
- (2) The director may apply to the court for an order forfeiting to the government property that is an instrument of unlawful activity.
- (3) An application for a forfeiture order under this section applies only with respect to property or an interest in property located in British Columbia.

Parties and notification

- 4** (1) In proceedings commenced under section 3 (1), the director must name as a party
- (a) a person who is a registered owner of the whole or the portion of the interest in property that is the subject of the application for forfeiture, and
 - (b) a person who the director has reason to believe is an unregistered owner of the whole or the portion of the interest in property that is the subject of the application for forfeiture.
- (2) In proceedings commenced under section 3 (2), the director must name as a party
- (a) a person who is a registered owner of the property that is the subject of the application for forfeiture, and
 - (b) a person who the director has reason to believe is an unregistered owner of the property that is the subject of the application for forfeiture.
- (3) In proceedings commenced under section 3 (1) or (2), the director must
- (a) notify a person if required to do so by the court or the regulations, and
 - (b) notify a person in the manner established by the regulations, unless the court orders a different manner of notification.

Response must identify interest in property

- 5** A person who files a response to proceedings commenced under [section 3](#) must set out in the response particulars of the nature of the interest or the portion of the interest that the person claims in the property that is the subject of the application for forfeiture, including the extent of the interest or the portion of the interest in the property.

Forfeiture order

- (2) Subject to section 7 and section 27 (1) [*protection order*], if proceedings are commenced under section 3 (2), the court must make an order forfeiting to the government property that the court finds is an instrument of unlawful activity.

Relief from forfeiture

- 7 (1) If a court determines that the forfeiture of property or the whole or a portion of an interest in property under this Act is clearly not in the interests of justice, the court may do any of the following:
- (a) refuse to issue a forfeiture order;
 - (b) limit the application of the forfeiture order;
 - (c) put conditions on the forfeiture order.
- (2) In the case of property that is proceeds of unlawful activity, the court may grant relief from forfeiture under subsection (1) if a party to the proceedings commenced under section 3 (1) proves both of the following:
- (a) the party did not, directly or indirectly, acquire the property as a result of unlawful activity committed by the party;
 - (b) the party
 - (i) was the rightful owner of the property before the unlawful activity occurred and was deprived of possession or control of the property by means of the unlawful activity,
 - (ii) acquired the property for fair value after the unlawful activity occurred and did not know and could not reasonably have known at the time of the acquisition that the property was proceeds of unlawful activity, or
 - (iii) acquired the property from
 - (A) a person who was the rightful owner of the property before the unlawful activity occurred and who was deprived of possession or control of the property by means of the unlawful activity, or
 - (B) a person who acquired the property for fair value after the unlawful activity occurred and did not know and could not reasonably have known at the time of the acquisition that the property was proceeds of unlawful activity.

Effective date of forfeiture order

- 8 (1) A forfeiture order made with respect to property or the whole or a portion of an interest in property, as applicable, is effective as follows:
- (a) in the case of real property or an interest in real property registered in the land title office,
 - (i) at the time a notice is filed under section 72 (1) [*filing notice in land title office*] with respect to the property or the whole or a portion of an interest in the property, or

- (b) in the case of property that is realized from the disposition of real property or an interest in real property registered in the land title office, if a notice was filed under section 72 (1) with respect to the real property or the whole or a portion of an interest in the real property, at the time the notice was filed;
 - (c) subject to paragraph (b), in the case of personal property or the whole or a portion of an interest in personal property, at the earliest of the following dates, as applicable:
 - (i) if notice of interest published under [section 76](#) in relation to the property or the whole or the portion of the interest in property has not, at the time the forfeiture order is made, been withdrawn, the date the notice of interest was published;
 - (ii) if notice of forfeiture was registered under section 32 (1) (a) [*notice of forfeiture under Part 4*] in relation to personal property that is serial numbered goods, the date the notice of forfeiture was registered;
 - (iii) if forfeiture was initiated under section 32 (1) in relation to the property or the whole or the portion of the interest in property, the date on which forfeiture was initiated;
 - (iv) the date proceedings were commenced under [section 3](#) [*application for forfeiture order*] in relation to the property.
- (2) A forfeiture order is retroactive to the extent necessary to give it force and effect on and after the date or time referred to in subsection (1) (a), (b) or (c), as applicable.

Part 3 — Court Orders

Division 1 — Interim Preservation Orders

Interim preservation order

- 9 (1) As part of a proceeding under section 3 (1) [*application for forfeiture order regarding proceeds of unlawful activity*] for forfeiture of the whole or a portion of an interest in property, the director may apply to the court for one or more interim preservation orders in relation to
- (a) the whole or the portion of the interest in property, or
 - (b) the property in which the whole or the portion of interest in property is held.
- (2) As part of a proceeding under section 3 (2) [*application for forfeiture order regarding instrument of unlawful activity*] for forfeiture of property, the director may apply to the court for one or more interim preservation orders in relation to the property.
- (3) The director may apply for an order under subsection (1) or (2) on the director's own initiative or on consent of one or more parties to the proceeding under [section 3](#).
- (4) On application under subsection (1) or (2), the court may make one or more of the following orders relating to the preservation, management or disposition of property or

whole or the portion of the interest in property;

- (b) an order for the possession, delivery to the director or safekeeping of property;
 - (c) an order appointing a person to act as a receiver manager for property or the whole or a portion of an interest in property;
 - (d) an order for the disposition of the property or the whole or the portion of the interest in property in order to better preserve the value of the property or the whole or the portion of the interest in property;
 - (e) an order directing that the money arising from the disposition of the property or the whole or the portion of an interest in the property under paragraph (d) be paid into court pending the conclusion of the proceeding under [section 3](#);
 - (f) for the purpose of securing performance of an obligation imposed by an order made under Part 2 [*Forfeiture Orders*] of this Act or under this Part, an order granting to the director a lien for an amount set by the court on property or the whole or the portion of an interest in property;
 - (g) an order the court considers appropriate to prevent the property from being
 - (i) removed from British Columbia, or
 - (ii) used to engage in unlawful activity;
 - (h) an order the court considers appropriate for the preservation of
 - (i) the property or the whole or the portion of an interest in the property,
 - (ii) the value of the property or of the whole or the portion of an interest in the property, or
 - (iii) the rights of creditors and other interest holders;
 - (i) subject to subsection (9), any other order that the court considers appropriate in the circumstances.
- (5) The amount set by the court under subsection (4) (f) is deemed for the purposes of the *Personal Property Security Act*
- (a) to be the full value of the property or the whole or portion of the interest in property that is the subject of the proceedings, unless the court orders otherwise, and
 - (b) to include the expenses referred to in section 59 (2) (a) [*disposition of collateral*] of the *Personal Property Security Act*.
- (6) Unless it is clearly not in the interests of justice, the court must make an interim preservation order applied for under this section if the court is satisfied that one or both of the following constitute a serious question to be tried:
- (a) whether the whole or the portion of the interest in property that is the basis of the application under subsection (1) is proceeds of unlawful activity;
 - (b) whether the property that is the basis of the application under subsection (2) is an instrument of unlawful activity.

- (8) On application of the director, the land title office may release a lien referred to in subsection (4) (f).
- (9) The court must not make any order under subsection (4) (i) that would directly or indirectly reduce the amount of money that would otherwise result from the disposition of the property or the whole or a portion of the interest in property on its forfeiture under this Act.

Order made without notice

- 10** (1) Subject to subsection (2), a court may make an interim preservation order under [section 9](#) without notice to any person.
- (2) An order made without notice under subsection (1) may not be made for a period greater than 60 days.
- (3) A court may grant one or more extensions to an order referred to in subsection (2) only if notice of the application to extend the order is given to every person who is required by the court to be given notice of the application, other than a person who, in the opinion of the court,
- (a) has been evading service,
 - (b) is unable to be located, in spite of the director's reasonable efforts, or
 - (c) need not be served because of exceptional circumstances.

Receiver manager

- 11** (1) A person appointed to act as a receiver manager under section 9 (4) (c) [*interim preservation order*] is the receiver manager of the property or the whole or a portion of the interest in property specified by the court.
- (2) If directed by the court, a receiver manager
- (a) may receive and hold property or the whole or a portion of an interest in property and dispose of property or the whole or a portion of an interest in property in the ordinary course of business,
 - (b) has the authority to manage the business and affairs conducted in relation to the property or the whole or a portion of the interest in property of the person named, and
 - (c) has all the incidental powers necessary to hold and manage the property or the whole or a portion of the interest in property.

Personal Property Security Act

- 12** (1) Despite [section 4](#) (a) [*exclusions from scope of Act*] of the *Personal Property Security Act*, but subject to this section, the *Personal Property Security Act* applies with respect to a lien granted under this Act and the enforcement of a lien granted under this Act on personal property or the whole or a portion of an interest in property that is personal property.

- (a) [section 61](#) [appointment and qualifications of receivers];
 - (b) [section 65](#) [obligations of receivers];
 - (c) [section 66](#) (1) (a) [court appointment of receiver].
- (3) If an order under [section 9](#) gives the director a lien on personal property or the whole or a portion of an interest in property that is personal property,
- (a) the lien is deemed to be a security interest taken in the personal property or the whole or a portion of the interest in property, as applicable, to secure the payment of the amount of the lien granted by a court under [section 9](#), and
 - (b) the lien is deemed to continue until it is discharged by the director.
- (4) The director, by registration of the lien under the *Personal Property Security Act*, perfects the lien as if the lien were a security interest perfected under that Act.
- (5) The following provisions of the *Personal Property Security Act* do not apply to this Act:
- (a) [section 58](#) (3) to (5) [right of seizure or repossession];
 - (b) [section 62](#) [rights of redemption and reinstatement];
 - (c) [section 67](#) [rights and remedies: consumer goods].

Division 2 — Orders Related to Production of Information or Records and Preservation of Property

Order to produce information or records required by director

- 13** (1) On application of the director, a court may make an order requiring a person to disclose to the director information or records in the custody or control of the person if the court is satisfied that the information or records are reasonably required by the director in order to exercise the director's powers or perform the director's duties or functions under this Act.
- (2) The director may apply for an order under subsection (1) before, at the time of or subsequent to
- (a) commencing proceedings under [section 3](#) [application for forfeiture order], or
 - (b) applying for
 - (i) an interim preservation order under [section 9](#), or
 - (ii) an order under [section 14](#).
- (3) The director must pay to a person who is subject to an order under subsection (1) the reasonable costs of producing, reproducing or delivering the information or records.

Preliminary order to preserve property

- 14** (1) Before commencing a proceeding under [section 3](#) (1) [application for forfeiture order regarding proceeds of unlawful activity] for forfeiture of the whole or a portion of an interest in property, the director may apply to the court for one or more of the orders described in subsection (3) of this section in relation to
- (a) the whole or the portion of the interest in property, or

- (2) Before commencing a proceeding under section 5 (2) [application for forfeiture order regarding instrument of unlawful activity] for forfeiture of property, the director may apply to the court for one or more of the orders described in subsection (3) of this section in relation to the property.
- (3) On application under subsection (1) or (2), the court may make one or more of the following orders relating to the preservation or disposition of property or the whole or a portion of an interest in property for the purposes of this Act:
- (a) an order restraining the disposition or transmission of the property or the whole or the portion of the interest in property;
 - (b) an order for the disposition of the property or the whole or the portion of the interest in property in order to better preserve the value of the property or the whole or the portion of the interest in property;
 - (c) an order the court considers appropriate to prevent the property from being
 - (i) removed from British Columbia, or
 - (ii) used to engage in unlawful activity;
 - (d) subject to subsection (6), any other order that the court considers appropriate in the circumstances.
- (4) Unless it is clearly not in the interests of justice, the court must make an order applied for under this section if the court is satisfied that one or both of the following constitute a serious question to be tried:
- (a) whether the whole or the portion of the interest in property that is the basis of the application under subsection (1) is proceeds of unlawful activity;
 - (b) whether the property that is the basis of the application under subsection (2) is an instrument of unlawful activity.
- (5) An application for an order under this section applies only to property or an interest in property located in British Columbia.
- (6) The court must not make any order under subsection (3) (d) that would directly or indirectly reduce the amount of money that would otherwise result from the disposition of the property or the whole or a portion of the interest in property on its forfeiture under this Act.

Court file may be sealed

- 15** (1) If an application under [section 13](#) or [14](#) is brought without notice, the director may request that the application and any supporting affidavits or other materials be sealed by a registrar of the court.
- (2) On receipt of a request under subsection (1), the registrar of the court must
- (a) seal the court file respecting the documents referred to in that subsection, and
 - (b) prohibit access to those documents other than by the director.
- (3) The documents referred to in subsection (1) must remain sealed until the hearing of the application.

notice to any person.

- (2) An order made without notice under [section 14](#) may not be made for a period greater than 90 days.
- (3) Unless the court orders otherwise, an application for an order under [section 13](#) or [14](#) must be heard in private.

Application to vary preliminary order to preserve property

- 17 (1) On application of a person affected by an order made under [section 14](#), the court may vary the order.
- (2) A notice of application brought under subsection (1) must be served at least 2 business days before the date set for the hearing of the application.

Division 3 — Unexplained Wealth Orders

Definitions

18 In this Division:

"**affiliated**", in relation to persons, means a person who is affiliated with another person within the meaning of [section 19](#);

"**beneficial owner**", in relation to an interest in property held by a trustee of a trust, means a person who is, in respect of the interest in property, a beneficial owner within the meaning of [section 20](#);

"**connected**", in relation to persons, means a person who is connected to a corporation, partnership or a trustee of a trust within the meaning of [section 21](#);

"**relative**" means all of the following:

- (a) a parent;
- (b) a sibling;
- (c) a child;
- (d) a sibling of a parent;
- (e) a child of a sibling;
- (f) a prescribed individual or an individual in a prescribed class;

"**settlor**", in relation to a trust, means a person who contributed any property to the trust estate, whether or not that person is the creator of the trust;

"**spouse**" means an individual who

- (a) is married to another individual, or
- (b) is living with another individual in a marriage-like relationship, and
 - (i) has done so for a continuous period of at least 2 years, or
 - (ii) has a child with the other individual.

- (a) an individual is affiliated with all of the following:
 - (i) the individual's spouse;
 - (ii) a relative of the individual;
 - (iii) a relative of the individual's spouse;
 - (iv) if the individual is connected to a corporation or partnership, any person that is connected to the corporation or partnership;
 - (v) a person who is affiliated with a person who is referred to in subparagraph (iv);
 - (vi) a spouse of an individual who is a person referred to in subparagraph (ii), (iii), (iv) or (v);
 - (vii) a prescribed person or a person in a prescribed class;
- (b) a corporation is affiliated with all of the following:
 - (i) a person who is connected to the corporation;
 - (ii) a person who is affiliated with a person referred to in subparagraph (i);
 - (iii) a prescribed person or a person in a prescribed class;
- (c) a partner in a partnership is affiliated with all of the following:
 - (i) a person who is connected to the partnership;
 - (ii) a person who is affiliated with a person referred to in subparagraph (i);
 - (iii) a prescribed person or a person in a prescribed class;
- (d) a trustee of a trust is affiliated with all of the following:
 - (i) a person who is another trustee of the trust;
 - (ii) a person who is a beneficial owner in respect of the whole or a portion of an interest in property held by the trustee of the trust;
 - (iii) a person who is a settlor in relation to the trust;
 - (iv) a person who has the power to do any of the following:
 - (A) remove or appoint a trustee of the trust;
 - (B) add or remove a beneficiary of the trust;
 - (C) veto a decision of a trustee of the trust;
 - (v) a person whose approval, consent or acquiescence is required under the terms of the trust for any act or decision of a trustee of the trust;
 - (vi) a person who is affiliated with a person referred to in subparagraph (i), (ii), (iii), (iv) or (v);
 - (vii) a prescribed person or a person in a prescribed class;
- (e) a person is affiliated with another person if one of them is affiliated with the other.

(2) Subsection (1) (a), (b), (c), (d) and (e) does not limit any other paragraph in that subsection.

- (a) the person has, in respect of the whole or the portion of the interest in property, a beneficial interest, other than an interest that is contingent on the death of an individual other than the person;
- (b) the person has the power to revoke the trust and receive the whole or the portion of the interest in property;
- (c) the person is connected to a corporation that has
 - (i) a beneficial interest in respect of the whole or the portion of the interest in property, or
 - (ii) the power to revoke the trust and receive the whole or the portion of the interest in property;
- (d) the person has a prescribed interest in respect of the whole or the portion of the interest in property.

Meaning of "connected"

21 (1) A person is connected to a corporation if any of the following apply:

- (a) the person is a legal or beneficial owner or has control, directly or indirectly, of
 - (i) shares of the corporation representing 10% or more of the value of the equity of that corporation, or
 - (ii) 10% or more of the voting rights in respect of the corporation;
- (b) the person has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the corporation;
- (c) the person, directly or indirectly, has the right to exercise or does exercise significant influence or control over the corporation;
- (d) without limiting paragraph (c), the person is a director, as defined in [section 1](#) of the *Business Corporations Act*, of the corporation;
- (e) the person has a prescribed interest, power or right in relation to the corporation.

(2) For the purposes of subsection (1) (a), (b) or (c), a direct or indirect interest, power or right includes an interest, power or right that a person has

- (a) alone,
- (b) together with one or more persons with common interests, or
- (c) through
 - (i) a corporation,
 - (ii) a trustee of a trust,
 - (iii) a personal or legal representative,
 - (iv) an agent, or
 - (v) any other intermediary.

(3) A person is connected to a partnership if any of the following apply:

interest in property held by a trustee of a trust that is a partner in the partnership;

- (c) the person is connected to a trustee of a trust, a corporation or a partnership, that is a partner in the partnership;
- (d) prescribed circumstances.

(4) A person is connected to a trustee of a trust if any of the following apply:

- (a) the person is another trustee of the trust;
- (b) the person is a beneficial owner in respect of the whole or a portion of an interest in property held by the trustee of the trust;
- (c) the person is a settlor in relation to the trust.

Application for unexplained wealth order

22 (1) The director may apply to the court for an unexplained wealth order in relation to property requiring a respondent or a responsible officer to provide a statement that includes all of the following:

- (a) particulars of the nature of the interest or the portion of the interest in the property held by the respondent, including the extent of the interest or the portion of the interest in the property;
- (b) particulars of the respondent's acquisition and maintenance of the property or the interest or the portion of the interest in the property, including how any costs incurred in acquiring and maintaining the property or the interest or the portion of the interest in the property have been met;
- (c) if any of the circumstances listed in section 24 (3) (b) to (e) apply, the information or particulars with respect to those circumstances as specified by the court;
- (d) without limiting paragraph (c), in the case of property held by a trustee of a trust, the information or particulars with respect to the trust as specified by the court;
- (e) any other information or particulars as specified by the court.

(2) The director may apply for an unexplained wealth order before, at the time of or subsequent to

- (a) an application for another order under this Part, or
- (b) commencing proceedings under [section 3](#) [*application for forfeiture order*] in relation to the property.

(3) An application for an unexplained wealth order

- (a) applies only in relation to property or an interest in property located in British Columbia, and
- (b) may be made whether or not,

portion of the interest in the property, or proceedings were commenced under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] in relation to the property, before or after the date this section comes into force.

- (4) An application for an unexplained wealth order must
- (a) specify the property to which the order relates,
 - (b) set out the factual basis for the application, including the following, as applicable:
 - (i) the factual basis for the matters referred to in section 24 (2) (a) and (b);
 - (ii) in the case of an application that specifies a person as a responsible officer in relation to a respondent, the factual basis for doing so, and
 - (c) be supported by an affidavit of the director.

Service and hearing the application

- 23** (1) The director must serve a copy of the notice of application for an unexplained wealth order and each supporting affidavit on
- (a) the respondent, and
 - (b) the responsible officer, if any.
- (2) The director is not required to serve the documents referred to in subsection (1) on, or otherwise give notice of the application to, any person other than a respondent or responsible officer.
- (3) Unless the court orders otherwise, the director must serve the documents referred to in subsection (1) at least 14 business days before the date set for the hearing of the application.
- (4) A respondent or responsible officer may file and serve a response to the application and any supporting materials at least 5 business days or, subject to subsection (6), any shorter period that the court may order, before the date set for the hearing of the application.
- (5) Unless the court orders otherwise, an application for an unexplained wealth order must
- (a) be scheduled for a hearing of not more than 2 days in length, and
 - (b) be heard within 180 days after the date on which the director files the notice of application or as soon as practicable after that period.
- (6) An application under subsection (4) to shorten the period for filing and serving a response to the application for an unexplained wealth order, or an application to adjourn the hearing of the application, must be supported by an affidavit setting out
- (a) the factual basis for the application, and
 - (b) in the case of an application under subsection (4), why the person is unable to file a response at least 5 business days before the date set for the hearing of the application.

- (a) the director consents to the order, or
 - (b) the court is satisfied that
 - (i) the order is reasonable in the circumstances, and
 - (ii) in the case of an application to adjourn the hearing of the application, the respondent or responsible officer is acting diligently and expeditiously to have the application heard.
- (8) No person, other than a respondent or responsible officer, may oppose the relief sought on the application for an unexplained wealth order.

Unexplained wealth order

- 24** (1) In this section, "**politically exposed foreign person**" has the same meaning as in [section 9.3 \(3\)](#) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada).
- (2) Unless it is clearly not in the interests of justice, the court must make an unexplained wealth order in relation to property if the court is satisfied that
- (a) the director has reasonable grounds to suspect that
 - (i) the respondent, or a person affiliated with the respondent, directly or indirectly engaged in unlawful activity, or
 - (ii) the respondent is a politically exposed foreign person or is affiliated with a politically exposed foreign person,
 - (b) the director has reason to believe that
 - (i) one or more of the circumstances listed in subsection (3) apply, and
 - (ii) the fair market value of the property is greater than \$75 000, and
 - (c) one or more of the following constitutes a serious question to be tried:
 - (i) whether the known sources of the respondent's lawfully obtained income would have been insufficient for the purpose of enabling the respondent to acquire or maintain the property or the whole or the portion of the interest in the property held by the respondent;
 - (ii) the property has been used to engage in unlawful activity;
 - (iii) the property or the whole or a portion of an interest in the property was acquired or is maintained directly or indirectly as a result of unlawful activity.
- (3) The following circumstances are listed for the purposes of subsection (2) (b) (i):
- (a) the respondent is a registered or unregistered owner of the property or the whole or a portion of an interest in the property;
 - (b) the respondent is connected to a trustee of a trust that holds the whole or a portion of an interest in the property;
 - (c) the respondent is connected to a corporation that holds the whole or a portion of an interest in the property;

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- (ii) the respondent is connected to the partnership referred to in subparagraph (i);
 - (e) prescribed circumstances.
- (4) For the purposes of subsection (2) (c) (i),
- (a) the respondent is deemed to have acquired the property or the whole or the portion of the interest in the property at a price equivalent to its fair market value,
 - (b) the known sources of the respondent's income are the sources reasonably ascertainable from the information that is available at the time the director files the notice of application, and
 - (c) the court may consider any mortgage, charge or other kind of security that may reasonably have been available to the respondent for the purpose of acquiring or maintaining the property or the whole or the portion of the interest in the property.
- (5) The court must make an unexplained wealth order if the court is satisfied the respondent or responsible officer has been served with notice of the application, whether or not the respondent or responsible officer attends the hearing of the application.

Contents of unexplained wealth order

- 25** (1) In addition to addressing the matters referred to in section 22 (1) [*application for unexplained wealth order*], as applicable, an unexplained wealth order must do all of the following:
- (a) require a respondent or responsible officer to disclose to the director copies of the following:
 - (i) any information or records in the custody or control of the respondent or responsible officer that are related to the statement referred to in section 22 (1);
 - (ii) any other information or records as specified in the order;
 - (b) require that the statement referred to in section 22 (1) specify the location of the originals of any information or records required under paragraph (a) of this subsection;
 - (c) require that the statement referred to in section 22 (1) and any information or records required under paragraph (a) of this subsection are to be provided by solemn declaration;
 - (d) require that the solemn declaration be delivered to the director as soon as reasonably practicable after the date on which the order is made and, in any case, on or before a date specified in the order;
 - (e) specify the manner in which the solemn declaration is to be delivered to the director.

(3) Subsection (1) (a) does not apply to information or records that are privileged.

(4) If a respondent or responsible officer claims that any information or records required under subsection (1) (a) of this section are privileged, Rule 7-1 (6), (7), (17) and (20) [*Discovery and Inspection of Documents*] of the [Supreme Court Civil Rules](#) applies in relation to the claim, and for that purpose

- (a) a reference to a document in [Rule 7-1](#) is to be read as a reference to the information or records, and
- (b) a reference to a list of documents in [Rule 7-1](#) is to be read as a reference to the statement referred to in section 22 (1).

(5) A respondent or responsible officer must allow the director to inspect and copy, during normal business hours and at the location specified in the statement referred to in section 22 (1), the originals of any records of which copies were disclosed to the director.

Costs — application of section 37 of *Class Proceedings Act*

26 Section 37 (1), (2) and (3) [*costs*] of the *Class Proceedings Act* applies in relation to an application for an unexplained wealth order and an appeal arising from an application.

Division 4 — Protection Orders and Other Orders Related to Forfeiture

Protection order

- 27** (1) Subject to subsection (3), if a court finds
- (a) that property is an instrument of unlawful activity, and
 - (b) that a person is an uninvolved interest holder with respect to that property,
- the court must make the orders necessary to protect the interest in the property held by the uninvolved interest holder.
- (2) A protection order issued with respect to property that is subject to a forfeiture order has effect from the date that the forfeiture order is effective, unless the court orders otherwise.
- (3) A court may refuse to issue a protection order if the issuance is clearly not in the interests of justice.

Orders related to forfeiture orders and protection orders

28 On application, a court may make, at the time of or subsequent to making a forfeiture order under [section 6](#) [*forfeiture order*], one or more of the following orders:

- (a) an order requiring
 - (i) the disposition or transmission of property or the whole or the portion of the interest in property forfeited, or
 - (ii) the disposition or transmission of property that includes the whole or the portion of the interest in property forfeited;
- (b) an order directing the manner of disposition of property or the whole or the portion of the interest in property referred to in paragraph (a) (i) or (ii),

- (c) an order directing that the money arising from the disposition of property or the whole or the portion of the interest in property referred to in paragraph (a) (i) or (ii) is applied in accordance with the direction of the court after taking into account all encumbrances;
- (d) an order requiring the severing or partition of property, or the whole or a portion of an interest in property;
- (e) an order requiring the cancellation of the whole or a portion of an interest in property;
- (f) an order providing that, subject to the interest of an uninvolved interest holder or another person, the government, on forfeiture, may take possession of or seize
 - (i) the property forfeited or the property in which an interest in property or a portion of an interest in property is forfeited, or
 - (ii) the interest in property or a portion of an interest in property that is forfeited;
- (g) any other order that the court considers appropriate in the circumstances.

Part 4 — Administrative Forfeiture of Subject Property

Definitions

29 In this Part:

"dispute period" means, in relation to a subject property, a period which ends on the later of the following dates:

- (a) 60 days after the date on which notice is published in a newspaper or the Gazette under section 32 (3);
- (b) 60 days after notice is deemed to have been received by all known interest holders under [section 34](#);

"known interest holder" means, in relation to a subject property, a person to whom the director is to give notice of forfeiture of the subject property under section 32 (1) (b) (i), (ii), (iii) or (iv);

"protected interest holder" means, in relation to a subject property, a person who

- (a) holds a registered interest in the whole or a portion of an interest in the subject property, and
- (b) did not directly or indirectly engage in the unlawful activity that is the basis of forfeiture under this Act,

but, in the case of subject property that is a financed vehicle, does not include a specified interest holder;

"subject property" means property described in section 30 (1) and to which this Part applies.

- (a) the director has reason to believe that
 - (i) the whole or a portion of an interest in property, other than real property, is proceeds of unlawful activity, or
 - (ii) property, other than real property, is an instrument of unlawful activity,
 - (b) the director has reason to believe that the fair market value of the property referred to in paragraph (a) (i) or (ii), other than a financed vehicle, is \$75 000 or less,
 - (c) the property referred to in paragraph (a) (i) or (ii) is in British Columbia and is in the possession of a public body, and
 - (d) the director has no reason to believe that there are any protected interest holders in relation to that property.
- (2) Subject to subsection (3), this Part does not apply to property described in subsection (1) if proceedings are commenced under [section 3](#) [*application for forfeiture order*] in relation to the property.
- (3) Despite subsection (2), if under [section 36](#) (a) [*if director receives notice of dispute*] the director commences proceedings under [section 3](#) in relation to the subject property, the public body entitled to maintain possession of the subject property under [section 33](#) continues to be entitled to maintain possession of that property until expiry of the 30-day period described in section 33 (a).
- (4) This Part does not apply in relation to property if the property is the subject of an order of a court establishing a right of possession in that property with a person other than the public body or authorizing a person other than the public body to have or take possession of that property.

Subject property is forfeited to government

- 31** Subject to [sections 32](#) to [38](#), subject property is forfeited to the government for disposal by the director without having to commence proceedings under [section 3](#) [*application for forfeiture order*].

Notice of forfeiture under this Part

- 32** (1) The director must do the following to initiate forfeiture in relation to any subject property:
- (a) in the case of subject property that is serial numbered goods, register in the personal property registry notice of forfeiture under this Part in relation to the subject property;
 - (b) subject to section 34 (3), give written notice of forfeiture under this Part to each of the following:
 - (i) the person from whom the subject property was seized;
 - (ii) any other person claiming to be lawfully entitled to possession of the subject property;

is a specified interest holder;

(v) the public body in possession of the subject property;

(c) in accordance with subsections (2) and (3) of this section, publish notice of forfeiture under this Part in relation to the subject property.

(2) Notice under subsection (1) (a) must state

(a) that the property is subject to forfeiture under this Part, and

(b) that the property and all interests in the property may be affected by forfeiture under this Part.

(3) Notice under subsection (1) (c) must be

(a) published in a newspaper of general circulation in British Columbia and circulating in or near the area in which the subject property was seized, or

(b) published in the Gazette.

(4) Notice under subsection (1) (b) and (c) must

(a) describe the subject property,

(b) state that the property is subject to forfeiture under this Part,

(c) indicate

(i) where the subject property was seized,

(ii) the date of the seizure, and

(iii) the basis for the seizure, and

(d) contain any prescribed information.

Public body entitled to possession

33 On receiving notice respecting a subject property under section 32 (1) (b) (v), a public body is entitled to maintain possession of the subject property, despite any other claim or interest or right of possession in the property, until the later of the following:

(a) 30 days after the director gives the public body notice of the direction taken under [section 36](#) *[if director receives notice of dispute]*;

(b) 30 days after the director notifies the public body under section 37 (2) *[director to take possession]*.

How notice is to be given to known interest holders

34 (1) Notice to a known interest holder must be given

(a) by sending the notice by ordinary or registered mail to the last known address of the person,

(b) by sending the notice by email to the last known email address of the person,

(c) by sending the notice by fax to the last known fax number of the person, or

(d) by delivering the notice by a prescribed method.

- (a) if the notice is sent by ordinary or registered mail, on the seventh day after deposit with Canada Post;
 - (b) if the notice is sent by email or fax before 4 p.m. on a day that is not a Saturday or holiday, on the day on which the notice was sent;
 - (c) if the notice is sent by email or fax on a Saturday or holiday or after 4 p.m. on any other day, on the next day that is not a Saturday or holiday;
 - (d) if the notice is delivered by a prescribed method, on the prescribed date.
- (3) The notice requirement in section 32 (1) (b) does not apply in relation to a person referred to in that provision if the person's mailing address, email address, fax number and any applicable information with respect to a prescribed method of delivery is unknown to the director.

Notice of dispute by claimed interest holder

- 35** (1) A person who claims to have an interest or a portion of an interest in subject property may dispute forfeiture under this Part by delivering a notice of dispute to the director in accordance with this section.
- (2) A notice of dispute under this section must be accompanied by a solemn declaration that
- (a) sets out particulars of the nature of the interest or the portion of the interest in the subject property held by the person, including the extent of the interest or the portion of the interest in the subject property,
 - (b) includes the following:
 - (i) the name of the person disputing forfeiture under this Part;
 - (ii) an address for service of documents for the person disputing the forfeiture;
 - (iii) the reasons for disputing that forfeiture,
 - (c) is made
 - (i) by the person or, in the case of a corporation, by an individual authorized by the corporation for the purpose of delivering a notice of dispute under this section, and
 - (ii) before a commissioner for taking affidavits for British Columbia, and
 - (d) is signed by the person making the solemn declaration and by the commissioner before whom it is made.
- (3) A person wishing to dispute under this section must deliver the notice of dispute to the director before the expiry of the dispute period.
- (4) For the purpose of this section, a notice of dispute that is delivered by mail is deemed to have been delivered on the date on which it was mailed.

If director receives notice of dispute

- 36** Within 30 days of receiving a notice of dispute under [section 35](#), the director must do the following:

- (b) give notice to the public body and each known interest holder of the direction taken under paragraph (a).

What happens if no notice of dispute is received by director

- 37** (1) If, by the seventh day after expiry of the dispute period, the director does not receive a notice of dispute to forfeiture under this Part of a subject property, the subject property is forfeited to the government for disposal by the director.
- (2) For the purposes of subsection (1), the director must
- (a) notify the public body in possession of the subject property of its forfeiture to the government under this Part,
 - (b) in the case of subject property that is a motor vehicle or trailer, direct the Insurance Corporation of British Columbia to transfer registration of the motor vehicle or trailer under the *Motor Vehicle Act* to the government,
 - (c) in the case of subject property that is a financed vehicle, discharge the registration of all specified security interests and any other charges or interests in relation to the financed vehicle, and
 - (d) take possession of or seize the subject property and dispose of it.
- (3) The Insurance Corporation of British Columbia must transfer registration of a motor vehicle or trailer in accordance with a direction received under subsection (2) (b).

Effective date of forfeiture under this Part

- 38** Forfeiture of a subject property under [section 37](#) is deemed to be effective immediately on expiry of the dispute period under this Part.

Innocent failure to deliver notice of dispute

- 39** (1) This section applies to a person who claims to have had an interest in subject property at the time of its forfeiture under [section 37](#) but who failed to deliver a notice of dispute in respect of the forfeiture in accordance with [section 35](#).
- (2) Subject to this section, Part 5 [*Proceedings, Presumptions and Proof*] and [section 91](#) [*limitation periods*], a claimant under subsection (1) of this section may commence proceedings in court against the government.
- (3) In proceedings commenced under subsection (2), the claimant must establish that
- (a) the claimant's failure to deliver a notice of dispute under and in accordance with [section 35](#) was not wilful or deliberate, and
 - (b) the proceedings were commenced as soon as reasonably possible after the claimant learned of the forfeiture.
- (4) It is a defence to proceedings under this section if the director establishes either of the following in relation to the subject property:
- (a) the whole or a portion of an interest in the subject property would have been proceeds of unlawful activity had proceedings been commenced under section

- (c) the subject property would have been an instrument of unlawful activity if proceedings had been commenced under section 3 (2) [*application for forfeiture order regarding instrument of unlawful activity*] in relation to the subject property before forfeiture under this Part.
- (5) A defence under subsection (4) (a) fails if the court finds that
- (a) the claimant did not, directly or indirectly, acquire the subject property as a result of unlawful activity committed by the claimant, and
 - (b) the claimant
 - (i) was the rightful owner of the subject property before the unlawful activity occurred and was deprived of possession or control of the property by means of the unlawful activity,
 - (ii) acquired the subject property for fair value after the unlawful activity occurred and did not know and could not reasonably have known at the time of the acquisition that the property was proceeds of unlawful activity, or
 - (iii) acquired the subject property from
 - (A) a person who was the rightful owner of the subject property before the unlawful activity occurred and who was deprived of possession or control of the property by means of the unlawful activity, or
 - (B) a person who acquired the subject property for fair value after the unlawful activity occurred and did not know and could not reasonably have known at the time of the acquisition that the property was proceeds of unlawful activity.
- (6) A defence under subsection (4) (b) fails if the court finds that the claimant did not directly or indirectly engage in the unlawful activity that would have been the basis of the proceedings under section 3 (2) had such proceedings been commenced before forfeiture under this Part.
- (7) For the purposes of subsection (6), a person who indirectly engaged in the unlawful activity that would have been the basis of the proceedings referred to in subsection (6) includes, without limitation, a person who had knowledge of the unlawful activity and received a financial benefit from the unlawful activity.
- (8) The court must order the government to pay a claimant who is successful in proceedings under this section an amount that is the lesser of the following:
- (a) the value of the claimant's interest in the subject property at the time of forfeiture;
 - (b) the liquidated value of the subject property that the government received on the subject property's disposition.
- (9) The amount of payment ordered under subsection (8) must be paid by the director out of the civil forfeiture account in accordance with [section 83](#).

referred under [section 37](#), exceeds the total of the following amounts, the director must give written notice to each specified interest holder:

- (a) an amount equal to any costs incurred by the director in relation to seizing, towing and storing the vehicle if the costs are incurred after the earlier of the following, as the case may be:
 - (i) the date of an order made under section 14 (3) [*preliminary order to preserve property*] in relation to the vehicle;
 - (ii) the time of forfeiture under [section 37](#);
 - (b) an amount equal to any costs incurred by the director to dispose of the vehicle;
 - (c) an administrative fee, if any, in the prescribed amount.
- (2) Notice under subsection (1) must
- (a) describe the financed vehicle,
 - (b) state that the financed vehicle or the whole or a portion of an interest in the financed vehicle was, under [section 37](#), forfeited to the government for disposal by the director,
 - (c) indicate
 - (i) the effective date of the forfeiture,
 - (ii) the amount of the proceeds resulting from the disposition of the financed vehicle,
 - (iii) each of the amounts referred to in subsection (1) (a) to (c), as applicable, and
 - (iv) the amount of the proceeds in excess of the total of the amounts referred to in subparagraph (iii), and
 - (d) contain any prescribed information.
- (3) Section 34 (1) and (2) [*how notice is to be given to known interest holders*] applies in relation to a notice required to be given under subsection (1) of this section.

Notice of interest in remaining proceeds

- 41** (1) A specified interest holder may claim an interest in any proceeds in excess of the total of the amounts referred to in section 40 (1) (a) to (c) by delivering a notice of interest to the director in accordance with this section.
- (2) A notice of interest must be accompanied by a solemn declaration that
- (a) attaches a copy of the agreement creating the applicable specified security interest in the financed vehicle,
 - (b) specifies any amount owing to the specified interest holder, in relation to the specified security interest in the financed vehicle, at the time of forfeiture of the vehicle or the whole or a portion of an interest in the vehicle under [section 37](#) [*what happens if no notice of dispute is received by director*],

(c) is made

- (i) by the person or, in the case of a corporation, by an individual authorized by the corporation for the purpose of delivering a notice of interest under this section, and
 - (ii) before a commissioner for taking affidavits for British Columbia, and
 - (e) is signed by the person making the solemn declaration and by the commissioner before whom it is made.
- (3) A specified interest holder must deliver the notice of interest to the director within 180 days after the date on which the specified interest holder is deemed to have received notice given under section 40 (1).
- (4) For the purposes of this section, a notice of interest that is delivered by mail is deemed to have been delivered on the date on which it is mailed.

If director receives notice of interest

- 42** (1) Subject to subsections (2) and (3), as soon as practicable after receiving a notice of interest under [section 41](#), the director must pay to the specified interest holder out of the civil forfeiture account in accordance with [section 83](#) an amount equal to the amount owing to the specified interest holder in relation to the applicable specified security interest in the financed vehicle at the time of forfeiture of the vehicle or the whole or a portion of an interest in the vehicle under [section 37](#) *[what happens if no notice of dispute is received by director]*.
- (2) For the purposes of subsection (1), the amount owing to the specified interest holder in relation to the financed vehicle does not include
- (a) an amount owing in relation to a prescribed charge or a prescribed fee arising under the terms of the security agreement, or
 - (b) an amount equal to the portion of a prescribed charge or a prescribed fee arising under the terms of the security agreement that is greater than a prescribed amount.
- (3) If an amount is payable under subsection (1) to more than one specified interest holder, the director must pay the amounts into court rather than to the specified interest holders.

No compensation payable

- 43** Other than an amount a court may order to be paid under [section 39](#) *[innocent failure to deliver notice of dispute]* or that is payable under section 42 (1), no other compensation is payable to any person by the government, the director, a public body or an employee of a public body and no other proceedings may be commenced or maintained to claim compensation from the government, the director, a public body or an employee of a public body as a result of forfeiture under this Part, including a legal proceeding for damages that is commenced or maintained by an uninvolved interest holder.

"**controlled substance**" has the same meaning as in the *Controlled Drugs and Substances Act* (Canada);

"**conviction**" means a conviction

- (a) that is not subject to appeal or further appeal, or
- (b) for which no appeal is taken;

"**finding of guilt**" includes a finding of guilt by a court, whether or not the court orders an absolute or conditional discharge under [section 730](#) of the *Criminal Code*, but does not include a finding of guilt if

- (a) the finding is subject to appeal or further appeal, or
- (b) an appeal is being taken in respect of the finding of guilt.

Proceedings

- 45** (1) The director may commence proceedings under [section 3](#) [*application for forfeiture order*] by
- (a) a petition proceeding or, if [Rule 17-1](#) [*Requisitions*] of the [Supreme Court Civil Rules](#) applies, a requisition proceeding, or
 - (b) an action.
- (2) All proceedings under Parts 2 [*Forfeiture Orders*] and 3 [*Court Orders*] are *in rem* and not *in personam*.
- (3) Proceedings under [section 39](#) [*innocent failure to deliver notice of dispute*] may only be commenced by an action.
- (4) Proceedings under [section 39](#) are *in personam* and not *in rem*.

Standard of proof

- 46** Findings of fact in proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*] and the discharge of any presumption are to be made on the balance of probabilities.

Proof of unlawful activity

- 47** (1) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that a person was convicted, found guilty or found not criminally responsible on account of a mental disorder in respect of an offence that constitutes an unlawful activity is proof that the person engaged in the unlawful activity.
- (2) A certificate that
- (a) sets out a copy of the charge and whether or not there was a conviction or finding of guilt with respect to the charge, and
 - (b) purports to be signed by

is, on proof of the identity of the person named in the certificate as the offender, sufficient evidence of the conviction of that person or the finding of guilt against that person, without proof of the signature or the official position of the person purporting to have signed the certificate.

(3) A certificate that

- (a) sets out a copy of the charge and a finding of not criminally responsible on account of a mental disorder with respect to the charge, and
- (b) purports to be signed by
 - (i) the officer having custody of the records of the court in which the person named was found not criminally responsible on account of a mental disorder, or
 - (ii) a person authorized to act for the officer,

is, on proof of the identity of the person named in the certificate as the person who was charged, sufficient evidence of the finding that the person named was found not criminally responsible on account of a mental disorder, without proof of the signature or the official position of the person purporting to have signed the certificate.

(4) If proof of a conviction, a finding of guilt or a finding that a person was not criminally responsible on account of a mental disorder is admitted in evidence under this section, the contents of the information, complaint or indictment relating to the offence for which the person was convicted, found guilty or found not criminally responsible on account of a mental disorder is admissible in evidence.

If no conviction or finding of unlawful activity

48 In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], an unlawful activity may be found to have occurred even if

- (a) no person has been charged with an offence that constitutes the unlawful activity, or
- (b) a person charged with an offence that constitutes the unlawful activity was acquitted of all charges in proceedings before a criminal court or the charges are withdrawn or stayed or otherwise do not proceed.

Determination respecting proceeds of unlawful activity

49 In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that a person

- (a) participated in an unlawful activity that resulted in or is likely to have resulted in the person receiving a financial benefit, and
- (b) subsequently did one or more of the following:
 - (i) acquired the whole or the portion of an interest in property that is the subject of the proceedings;

the portion of the interest in property that is the subject of the proceedings,

is proof, in absence of evidence to the contrary, that the whole or the portion of the interest in property that is the subject of the proceedings is proceeds of unlawful activity as a result of the unlawful activity referred to in paragraph (a).

Proceeds of unlawful activity — property of members of criminal organizations

50 (1) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that the whole or the portion of an interest in property that is the subject of the proceedings

- (a) is owned, controlled or possessed by a person listed in subsection (2), or
- (b) was transferred for less than fair market value and, immediately before the transfer, was owned, controlled or possessed by a person listed in subsection (2)

is proof, in the absence of evidence to the contrary, that the whole or the portion of the interest in property, as the case may be, is proceeds of unlawful activity.

(2) The following persons are listed for the purposes of subsection (1):

- (a) a member of a criminal organization, as defined in the [Criminal Code](#);
- (b) a corporation, if a member of a criminal organization is a director or officer of the corporation or has, directly or indirectly, a controlling interest in the corporation.

(3) Subsection (1) does not apply to the whole or a portion of an interest in property if the fair market value of the whole or the portion of the interest in property is less than \$10 000.

Presumption — criminal organization offence

51 (1) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that a person was convicted, found guilty or found not criminally responsible on account of a mental disorder in respect of a criminal organization offence, as defined in the [Criminal Code](#), is proof, in the absence of evidence to the contrary, that the person is a member of a criminal organization.

(2) Subsection (1) does not apply to a person who was convicted, found guilty or found not criminally responsible on account of a mental disorder in respect of a criminal organization offence if

- (a) a record suspension, as defined in [section 2](#) of the [Criminal Records Act](#) (Canada), has been granted under that Act in respect of the criminal organization offence, and
- (b) the record suspension has neither been revoked nor ceased to have effect.

Proceeds of unlawful activity — cash or negotiable instruments

- (a) in proximity to a controlled substance, or
- (b) in the case of cash, bundled or packaged in a manner not consistent with standard banking practices

is proof, in the absence of evidence to the contrary, that the cash or negotiable instruments are proceeds of unlawful activity.

Instrument of unlawful activity — motor vehicle, trailer, vessel, aircraft or other conveyance

53 (1) In this section:

"**after-market compartment**" has the same meaning as in the *Armoured Vehicle and After-Market Compartment Control Act*;

"**trafficking**" has the same meaning as in the *Controlled Drugs and Substances Act* (Canada);

"**vessel**" has the same meaning as in the *Canada Shipping Act, 2001* (Canada).

(2) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that any of the following were found inside, on or attached to a motor vehicle, trailer, vessel, aircraft or other conveyance is proof, in the absence of evidence to the contrary, that the motor vehicle, trailer, vessel, aircraft or other conveyance is an instrument of unlawful activity:

- (a) a restricted firearm or a prohibited firearm, as defined in [section 84 \(1\)](#) of the *Criminal Code*;
- (b) a controlled substance, in circumstances or in a quantity consistent with trafficking in the controlled substance;
- (c) equipment, devices or other things related to trafficking in a controlled substance, including any prescribed equipment, devices or other things.

(3) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that a motor vehicle or trailer contains an after-market compartment is proof, in the absence of evidence to the contrary, that the motor vehicle or trailer is an instrument of unlawful activity.

Instrument of unlawful activity — refusing to stop or fleeing from police

54 (1) In this section, "**peace officer**" means

- (a) an officer as defined in [section 1](#) of the *Police Act*,
- (b) a member of the Royal Canadian Mounted Police who is deemed to be a provincial constable under section 14 (2) (b) [*Royal Canadian Mounted Police as provincial police force*] of the *Police Act*, or
- (c) a person in a prescribed class of persons.

(2) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that

- (a) a driver of a motor vehicle

- (ii) used the motor vehicle to flee from a peace officer, and
- (b) the driver's use of the motor vehicle could have resulted in serious bodily harm to a person

is proof, in the absence of evidence to the contrary, that the motor vehicle is an instrument of unlawful activity.

Instrument of unlawful activity — growing cannabis

55 (1) In this section, "**cannabis plant**", "**dwelling house**", "**grow**" and "**medical cannabis**" have the same meanings as in the *Cannabis Control and Licensing Act*.

(2) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] or [section 39](#) [*innocent failure to deliver notice of dispute*], proof that cannabis plants were found growing at property in any of the following circumstances is proof, in the absence of evidence to the contrary, that the property is an instrument of unlawful activity:

- (a) in the case of real property that is not a dwelling house,
 - (i) the growing of cannabis plants at the property is not authorized under the *Cannabis Act* (Canada), or
 - (ii) the number of cannabis plants that are medical cannabis growing at the property is greater than the number authorized under the *Cannabis Act* (Canada);
- (b) in the case of a dwelling house, the number of cannabis plants growing at the dwelling house is greater than the sum of the following:
 - (i) the total number of cannabis plants that are medical cannabis that each adult who ordinarily resides at the dwelling house is authorized under the *Cannabis Act* (Canada) to grow at the dwelling house;
 - (ii) the number of cannabis plants determined by the following formula:

$$5 \times A$$

where

A = the number of cannabis plants referred to in [section 56](#) (c) [*personal growing of cannabis plants — non-medical cannabis*] of the *Cannabis Control and Licensing Act*.

(3) Section 2.1 [*activities under Cannabis Act (Canada)*] of the *Cannabis Control and Licensing Act* applies for the purposes of this section.

Presumption — failure to comply with unexplained wealth order

56 (1) Subsection (2) applies if a respondent or responsible officer, as applicable, on or before the latest date on which the respondent or responsible officer was required to comply with any requirement in an unexplained wealth order,

- (a) did not provide all of the information and records required to be provided under the order, or
- (b) otherwise failed to comply with a requirement of the order.

the property held by a respondent, if any, is proceeds of unlawful activity.

Director may amend pleadings as a result of unexplained wealth order

- 57** (1) The director may, within one year of the latest date on which a respondent is required to comply with a requirement in an unexplained wealth order, amend the director's pleadings in proceedings commenced under Part 2 [*Forfeiture Orders*] to address any matters arising from the unexplained wealth order.
- (2) The amendments referred to in subsection (1)
- (a) may be made whether or not the director has previously amended the director's pleadings in the proceedings, and
 - (b) may be made
 - (i) at any time before service of the notice of trial in the proceedings, or
 - (ii) after the notice of trial is served, only with leave of the court or written consent of the parties.

Adverse inference — unexplained wealth order

- 58** (1) Subsection (2) applies in relation to a respondent against whom an unexplained wealth order is made if either of the following apply:
- (a) the respondent or responsible officer does not provide all of the information and records required to be provided under the order, or otherwise fails to comply with a requirement of the order;
 - (b) a court finds that
 - (i) a fact included in a statement provided by the respondent or responsible officer in accordance with the order is not true, or
 - (ii) a record provided by the respondent or responsible officer in accordance with a requirement of the order is not authentic.
- (2) In proceedings under Part 2 [*Forfeiture Orders*] or 3 [*Court Orders*] the court may draw an adverse inference against a respondent to whom this subsection applies.

Presumption of advancement

- 59** For the purposes of this Act, the presumption of advancement does not apply to a transfer of property or of an interest or a portion of an interest in property.

Part 6 — Interests in Property and Financed Vehicles

Division 1 — Suspension and Extinguishment of Interests in Property

Definitions

- 60** (1) In this Division:

before the date on which the director takes the action referred to in section 61

(3) (a), is

(i) held by a public body, and

(ii) not registered;

(b) any right or remedy to which the public body may be entitled in relation to an interest referred to in paragraph (a);

"**public body**" means a public body as defined in the *Freedom of Information and Protection of Privacy Act*;

"**subsequent interest**" means the following:

(a) an interest in property or the whole or a portion of an interest in property that, after the date on which the director takes the action referred to in section 61 (4) (a) to (e), is created or given by an agreement, instrument, rule of law or enactment or otherwise attaches to the property or the whole or the portion of the interest in property;

(b) any right or remedy to which a person may be entitled in relation to an interest referred to in paragraph (a).

(2) The definitions of "existing public body interest" and "subsequent interest" in subsection (1) do not include the following:

(a) liens for wages due to workers by their employer;

(b) liens under section 50 (1) [*amounts owing under a determination or order*] of the *Temporary Foreign Worker Protection Act*;

(c) liens in relation to amounts owing under the *Income Tax Act*;

(d) liens under section 16 (2) [*loans made by Public Guardian and Trustee*] of the *Public Guardian and Trustee Act*.

Interests in property suspended

61 (1) In this section, "**specified period**",

(a) for the purposes of subsection (3), means the period

(i) beginning on the date that is 60 days after the director takes the action referred to in subsection (3) (a), and

(ii) ending on the following date, as applicable:

(A) the date on which the director removes the notice of interest from the website referred to in section 76 (1);

(B) if the director withdraws from proceeding under this Act under [section 36](#) (a) [*if director receives notice of dispute*] or discontinues proceedings commenced under [section 3](#) [*application for forfeiture order*], the date of the withdrawal or discontinuance;

(C) the date on which a court makes or refuses to make a forfeiture order;

- (c) for the purposes of subsection (1), means the period
- (i) beginning on the date on which the subsequent interest referred to in that subsection is created or given, and
 - (ii) ending on the date referred to in paragraph (a) (ii) of this subsection, as applicable.
- (2) Subsections (3) and (4) apply despite any other enactment and subject to subsections (6) and (7).
- (3) If
- (a) the director does either of the following in relation to property or the whole or a portion of an interest in property:
 - (i) publishes notice of interest under section 76 (1);
 - (ii) commences proceedings under [section 3](#) [*application for forfeiture order*], and
 - (b) a public body that holds an existing public body interest in the property or the whole or the portion of the interest in property does not, within 60 days after the director takes the action referred to in paragraph (a), give notice to the director of the existing public body interest,
- the existing public body interest is suspended during the specified period.
- (4) If the director does any of the following in relation to property or the whole or a portion of an interest in property:
- (a) publishes notice of interest under section 76 (1);
 - (b) initiates forfeiture under Part 4;
 - (c) in the case of serial numbered goods, registers notice of forfeiture in the personal property registry under section 32 (1) (a);
 - (d) in the case of property other than real property, commences proceedings under [section 3](#);
 - (e) in the case of real property or an interest in real property registered in the land title office, files a notice under section 72 (1) [*filing notice in land title office*],
- any subsequent interests in the property or the whole or the portion of the interest in property are suspended during the specified period.
- (5) On request of the director, a public body that gives notice to the director under subsection (3) (b) must provide to the director information with respect to the amount owing in relation to the existing public body interest referred to in that subsection.
- (6) Despite subsections (3) and (4) and subject to subsection (7),
- (a) a public body that holds an existing public body interest in the property or the whole or the portion of the interest in property referred to in subsection (3) may, during the specified period referred to in that subsection, do one or both of the following:
 - (i) register the existing public body interest;

- (v) a person who holds a subsequent interest in the property or the whole or the portion of the interest in property referred to in subsection (4) may, during the specified period referred to in that subsection, commence proceedings in relation to the subsequent interest.
- (7) During the specified period referred to in subsection (3) or (4), as applicable, no further steps may be taken and no orders made in the proceedings referred to in subsection (6) (a) (ii) or (b) other than discontinuance of the proceedings.

Interests in property extinguished

- 62** (1) Despite any enactment and without limiting [section 90](#) [*obligations of government on forfeiture*], if property or the whole or a portion of an interest in property is forfeited to the government under this Act, unless the court orders otherwise under [section 7](#) [*relief from forfeiture*], [27](#) [*protection order*] or [28](#) [*orders related to forfeiture orders and protection orders*], any other interest of any person in the property or the whole or the portion of the interest in property is extinguished.
- (2) Subsection (1) does not apply to
- (a) liens in relation to amounts owing under the *Income Tax Act*,
 - (b) liens under [section 16 \(2\)](#) [*loans made by Public Guardian and Trustee*] of the *Public Guardian and Trustee Act*,
 - (c) in the case of real property, any of the following that are registered in the land title office:
 - (i) an easement;
 - (ii) a restrictive covenant;
 - (iii) a covenant referred to in [section 219](#) [*registration of covenant as to use and alienation*] of the *Land Title Act*;
 - (iv) a statutory right of way;
 - (v) a building scheme as defined in [section 1](#) of the *Land Title Act*;
 - (vi) undersurface rights referred to in [section 393](#) [*transitional — Land Registry Act*] of the *Land Title Act*;
 - (vii) a party wall agreement as defined in [section 223.1](#) of the *Land Title Act*;
 - (viii) a prescribed charge, or
 - (d) a prescribed charge or interest.

Division 2 — Financed Vehicles

Definition and application

- 63** (1) In this Part, "**specified period**" means the period
- (a) beginning on the date that the director takes an action referred to in subsection (2) (a) or (b), as applicable, and
 - (b) ending on the following date, as applicable:

order], the date of the withdrawal or discontinuance;

- (ii) the date on which a court makes or refuses to make a forfeiture order;
- (iii) the date of forfeiture under Part 4 [*Administrative Forfeiture of Subject Property*].

(2) [Section 64](#) applies if the director does either of the following in relation to a financed vehicle or the whole or a portion of an interest in a financed vehicle:

- (a) registers notice of forfeiture in the personal property registry under section 32
 - (1) (a) [*serial numbered goods*];
- (b) commences proceedings under [section 3](#).

Rights, remedies and legal proceedings suspended during specified period

- 64** (1) All rights or remedies of the owner of a financed vehicle under a security agreement or under [section 62](#) [*rights of redemption and reinstatement*] of the *Personal Property Security Act* are suspended during the specified period.
- (2) During the specified period, the following legal proceedings in relation to a financed vehicle may be commenced but no further steps may be taken, and no orders may be made, in the proceedings other than discontinuing the proceedings:
- (a) a legal proceeding for possession of the vehicle;
 - (b) a legal proceeding that may result in an order directly or indirectly reducing the amount of money that would otherwise result from the disposition of the vehicle or the whole or a portion of an interest in the vehicle on its forfeiture under this Act.

Interests extinguished and proceedings limited after forfeiture

- 65** (1) If a financed vehicle or the whole or a portion of an interest in a financed vehicle is forfeited to the government under this Act, all rights or remedies of the owner of the financed vehicle under a security agreement or [section 62](#) [*rights of redemption and reinstatement*] of the *Personal Property Security Act* are extinguished
- (a) on and after the date the forfeiture order is made under [section 6](#), or
 - (b) at the time of the forfeiture under [section 37](#) [*what happens if no notice of dispute is received by director*].
- (2) Subsection (1) does not apply if the court orders otherwise under [section 7](#) [*relief from forfeiture*] or 27 [*protection order*].
- (3) Without limiting [section 43](#) [*no compensation payable*], 64 (2) or 69 (1) [*personal liability protection*], if a financed vehicle or the whole or a portion of an interest in a financed vehicle is forfeited to the government under this Act, the following legal proceedings may not be brought or maintained on or after the date the forfeiture order is made under [section 6](#) or the time of the forfeiture under [section 37](#), as applicable:
- (a) a legal proceeding for possession of the vehicle;

an uninvolved interest holder.

(4) Subsection (3) does not operate to prohibit any of the following:

- (a) a proceeding that is commenced or maintained under [section 39](#) [*innocent failure to deliver notice of dispute*];
- (b) delivering a notice of interest under [section 41](#) [*notice of interest in remaining proceeds*];
- (c) an application for judicial review of a decision of the director under this Act;
- (d) a legal proceeding for damages brought by a party to a security agreement against another party to the agreement;
- (e) in a case where a party to a security agreement retains possession of a financed vehicle under a forfeiture order made in respect of the vehicle or the whole or a portion of an interest in the vehicle, a legal proceeding seeking possession of the vehicle brought by another party to the agreement.

Part 7 — Administration

Division 1 — Director

Director

- 66** (1) The minister may in writing designate as director a person who is appointed under the [Public Service Act](#).
- (2) The director may delegate, with or without conditions, any or all of the powers, duties and functions of the director under this Act to a person or class of persons.
- (3) A delegation under subsection (2) must be in writing and may include any terms or conditions the director considers advisable.

Powers, duties and functions of director

- 67** (1) In this section:

"**public body**" means a public body as defined in the [Freedom of Information and Protection of Privacy Act](#);

"**specified organization**" means an organization as defined in [section 1](#) of the [Personal Information Protection Act](#) that is prescribed or is in a prescribed class.

- (2) The director may administer and dispose of property or the whole or a portion of an interest in property under this Act in accordance with the orders of the court, this Act and the regulations.
- (3) Without restricting section 66 (2), the director's powers, duties and functions include
- (a) collecting and managing the use and disclosure of information and maintaining records for the purposes of this Act and, on the basis of

- (c) managing the distribution of proceeds from property, an interest in property or a portion of an interest in property forfeited to the government under this Act.
- (4) Subject to the regulations, the director may enter into information-sharing agreements that are reasonably required by the director in order to exercise the director's powers or perform the director's duties or functions under this Act with the following:
 - (a) Canada, a province or another jurisdiction in or outside of Canada;
 - (b) a public body;
 - (c) a specified organization.
- (5) Subject to subsection (6), the director is entitled to information that is
 - (a) in the custody or control of
 - (i) a public body, or
 - (ii) a specified organization, and
 - (b) reasonably required by the director in order to exercise the director's powers or perform the director's duties or functions under this Act.
- (6) Subsection (5) does not apply to the following information:
 - (a) information that must not be disclosed under [section 51](#) [*health care evidence*] of the *Evidence Act*;
 - (b) information that is subject to solicitor-client privilege;
 - (c) information that is required to be kept confidential under
 - (i) an enactment of Canada, or
 - (ii) an agreement with the government of Canada, a province or another jurisdiction in or outside Canada;
 - (d) in the case of information in the custody or control of a public body or specified organization that has entered into an information-sharing agreement with the director under subsection (4), information that may not be shared under the terms of the agreement;
 - (e) prescribed information.
- (7) A public body that has custody or control of information to which the director is entitled under subsection (5) must, on request, disclose that information to the director.
- (8) A specified organization that has custody or control of information to which the director is entitled under subsection (5) must, within 30 days after receiving a request for the information, disclose that information to the director.
- (9) This section applies despite any other enactment.

Requirement to not disclose request

- 67.1** (1) In this section, "**relevant organization**" means a specified organization as defined in [section 67](#) that is prescribed or in a prescribed class.

person in respect of which solicitor-client privilege exists, either of the following:

- (a) that the director has requested the relevant organization to disclose the individual's personal information;
 - (b) that the relevant organization has disclosed the individual's personal information to the director.
- (3) To the extent of any inconsistency or conflict with section 23 (1) (c) [*access to personal information*] of the *Personal Information Protection Act*, this section applies despite that Act.

Information sharing

- 68** (1) In this section, "**specified information**" means information and records obtained by or on behalf of the director
- (a) in proceedings commenced under [section 3](#) [*application for forfeiture order*], other than information or records obtained under section 67 (4), (7) or (8),
 - (b) pursuant to an order of the court, or
 - (c) under [section 70](#),
- but does not include information that is available to the public.
- (2) Despite any other enactment or law other than a prescribed enactment, the director must not use or disclose specified information except as authorized by this section.
- (3) The director may use or disclose specified information as follows:
- (a) for the purposes of administering this Act, including any proceedings under this Act;
 - (b) for the purposes of a prosecution for perjury or for proceedings for contempt;
 - (c) in accordance with an order of the court made on application by the director in proceedings under this Act.
- (4) Despite any other enactment or law, the director must not be required, in connection with any legal proceedings, to give or produce evidence relating to any information or records obtained by or on behalf of the director under this Act.
- (5) Subsection (4) does not apply in respect of legal proceedings referred to in subsection (3) (a) or (b).
- (6) To the extent of any inconsistency or conflict with [sections 32](#) [*use of personal information*] and [33](#) [*disclosure of personal information*] of the *Freedom of Information and Protection of Privacy Act*, this section applies despite that Act.

Personal liability protection

- 69** (1) Subject to subsections (2) and (3), no legal proceeding for damages lies or may be commenced or maintained against the director or a person acting on behalf of or under the direction of the director because of anything done or omitted

(c) in the exercise or intended exercise of any power under this Act.

- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.
- (3) Subsection (1) does not operate to prohibit a proceeding that is commenced or maintained under [section 39](#) [*innocent failure to deliver notice of dispute*] or a legal proceeding for damages that is commenced or maintained by an uninvolved interest holder.

Division 2 — Notice to Produce Information

Notice to produce information

70 (1) In this section, "**financial institution**" means

- (a) a savings institution,
 - (b) a trust company, or
 - (c) a person or entity in a prescribed class of persons or entities.
- (2) The director may give a written notice, in the prescribed form, to a person to produce information described in subsection (3), as specified in the notice, if all of the following apply:
- (a) the director has reason to suspect that
 - (i) the whole or a portion of an interest in property is proceeds of unlawful activity, or
 - (ii) property is an instrument of unlawful activity;
 - (b) the director has reason to believe that the property referred to in paragraph (a) (i) or (ii) is in British Columbia;
 - (c) the director has reason to believe that
 - (i) the person is a financial institution in possession of the whole or the portion of the interest in property referred to in paragraph (a) (i), or
 - (ii) the person has a registered interest in the property referred to in paragraph (a) (i) or (ii);
 - (d) the information is reasonably required by the director in order to exercise the director's powers or perform the director's duties or functions under this Act.
- (3) A notice under subsection (2) may request that the person provide to the director,
- (a) in the case of a person referred to in subsection (2) (c) (i), the following information in relation to any accounts in which the property referred to in subsection (2) (a) (i) is held by the person:
 - (i) any information necessary to identify the account, including the account number and other particulars;
 - (ii) the nature and type of the account;
 - (iii) whether the account is active;
 - (iv) the names and addresses of all account holders, and

- (4) A person who has custody or control of information requested by a notice under this section must, within 30 days after receiving the notice, disclose that information to the director.
- (5) If the director provides a notice under subsection (2) to a person referred to in subsection (2) (c) (i), the director must, as soon as practicable after providing the notice, do one of the following:
 - (a) disclose to all account holders identified by the person that a notice was given under this section;
 - (b) commence proceedings under [section 3](#) [*application for forfeiture order*] in relation to the whole or the portion of the interest in property;
 - (c) apply for an order under [section 13](#) [*order to produce information or records required by director*] or 14 [*preliminary order to preserve property*].

Requirement to not disclose existence of notice

- 71** (1) If reasonably required in order for the director to exercise the director's powers or perform the director's duties or functions under this Act, the director may require in a notice under section 70 (2) that the person to whom the notice is given must not disclose to any person the existence of the notice.
- (2) If the director has required in a notice under section 70 (2) that a person must not disclose to any person the existence of the notice, the person must not disclose the existence of the notice to any person, other than a person in respect of which solicitor-client privilege exists, unless the director advises otherwise in accordance with subsection (3) of this section.
- (3) If non-disclosure of a notice under section 70 (2) is no longer reasonably required in order for the director to exercise the director's powers or perform the director's duties or functions under this Act, the director must advise the person, as soon as practicable, that the non-disclosure requirement no longer applies.

Division 3 — Filing Notice of Application

Filing notice in registries

- 72** (1) After commencing proceedings under [section 3](#) [*application for forfeiture order*] that relate to real property or the whole or a portion of an interest in property that is real property registered in the land title office, the director may file, in the prescribed manner, in the land title office the prescribed form of notice setting out that the proceedings commenced may affect the real property or the whole or a portion of an interest in the property that is the real property referred to in the notice.
- (2) After commencing proceedings under [section 3](#) that relate to personal property that is serial numbered goods or the whole or a portion of an interest in personal property that is serial numbered goods, the director may register, in the prescribed manner, in the personal

- (3) The director may amend, extend or cancel a notice referred to in subsection (1) or (2) by filing or registering, in the same manner as the notice was filed or registered, the amendment, extension or cancellation in the land title office or the personal property registry, as applicable.
- (4) The registrar under the *Land Title Act* must register a notice, and an amendment, an extension or a cancellation of a notice referred to in subsection (1), if
- (a) the notice, amendment, extension or cancellation is filed in the prescribed manner, and
 - (b) the prescribed fee, if any, is paid to the registrar.
- (5) A notice and an amendment or extension of a notice registered under subsection (4) has the same effect as a certificate of pending litigation registered under the *Land Title Act*.

Division 4 — Notice of Intent to Commence Proceedings

Notice of intent to commence proceedings

- 73** (1) In this section, "**court**" means the Provincial Court, the Supreme Court or the Court of Appeal.
- (2) If the director intends to commence proceedings under [section 3](#) [*application for forfeiture order*] in relation to personal property that is in the possession of a public body, the director may deliver notice of that intent to the public body.
- (3) Subsection (2) does not apply to personal property if the property is the subject of an order of a court establishing a right of possession in that property with a person other than the public body or authorizing a person other than the public body to have or take possession of that property.
- (4) If notice is delivered to a public body under subsection (2),
- (a) the director must, within 30 days after the notice is delivered,
 - (i) commence proceedings under [section 3](#) in relation to the personal property, or
 - (ii) withdraw notice of the intent to commence proceedings, and
 - (b) the public body is entitled to maintain possession of the personal property, despite any other claim of an interest or right of possession in the property, until the earlier of the following:
 - (i) 30 days after the notice is delivered;
 - (ii) the date on which notice is withdrawn under paragraph (a) (ii) of this subsection.
- (5) Subsection (4) (b) does not apply if proceedings are commenced under [section 3](#) in relation to the personal property and the court makes an order under [section 9](#) [*interim preservation order*] transferring possession of the personal property to the director or another person.

Division 5 — Director Entitled to Possession of Property

Definitions

74 In this Division:

"notice of interest" means notice of interest published under section 76 (1);

"subject property" means property described in [section 75](#) and to which this Division applies;

"withdraw", in relation to a notice of interest, means to remove the notice of interest from the website referred to in section 76 (1).

Application of this Division

75 This Division applies to property if

- (a) the director has reason to suspect that
 - (i) the whole or a portion of an interest in property, other than real property, is proceeds of unlawful activity, or
 - (ii) property, other than real property, is an instrument of unlawful activity, and
- (b) the property referred to in paragraph (a) (i) or (ii) is in British Columbia and is in the possession of a public body.

Notice of interest

76 (1) The director may, in accordance with this section, publish notice of interest in relation to subject property on a publicly accessible website maintained by or on behalf of the government.

(2) If the director publishes notice of interest in relation to subject property, the director must,

- (a) subject to subsection (4), within 40 days after notice is published, give written notice to each of the following:
 - (i) the person from whom the property was seized;
 - (ii) a person who is a registered owner of the property or the whole or the portion of the interest in the property;
 - (iii) a prescribed person or a person in a prescribed class, and
- (b) within 120 days after notice is published,
 - (i) commence proceedings under [section 3](#) [*application for forfeiture order*] in relation to the property,
 - (ii) initiate forfeiture in relation to the property under Part 4 [*Administrative Forfeiture of Subject Property*], or
 - (iii) withdraw the notice of interest.

(3) Notice under subsections (1) and (2) (a) must

- (a) describe the subject property,

(c) include

- (i) where the subject property was seized,
 - (ii) the date of the seizure, and
 - (iii) the basis for the seizure,
- (d) include the name of the public body that seized the property, and
- (e) contain any prescribed information.

(4) Section 34 (1), (2) and (3) [*how notice is to be given to known interest holders*] applies in respect of a written notice required to be given under subsection (2) (a) of this section.

Filing notice in the personal property registry

76.1 (1) Without limiting section 72 (2) [*filing notice in personal property registry*], if the director publishes notice of interest in relation to subject property that is serial numbered goods, the director may register, in the prescribed manner, in the personal property registry notice setting out that under [section 77](#) the director is lawfully entitled to possession of the property and this may affect the property or the whole or the portion of the interest in property referred to in the notice.

(2) Section 72 (3) applies in respect of the notice referred to in subsection (1) of this section.

(3) If the director registers notice under subsection (1) in the personal property registry and subsequently withdraws the notice of interest referred to in that subsection, the director must cancel the notice registered in the personal property registry.

Director deemed to be entitled to possession

77 (1) On publication of notice of interest in relation to subject property, the director is deemed to be lawfully entitled to possession of the property.

(2) The director's lawful entitlement to possession of subject property under subsection (1) ends in the following circumstances:

- (a) the director withdraws the notice of interest in relation to the property;
- (b) the director fails to comply with section 76 (2) (a) or (b) within the period referred to in that section, as applicable;
- (c) if a court, by order,
 - (i) establishes a right of possession in the property with a person other than the director or the public body, or
 - (ii) authorizes a person other than the director or the public body to have or to take possession of the property.

(3) In the circumstances described in subsection (2) (b) or (c) (i) or (ii), the director must withdraw the notice of interest in relation to the subject property.

Notice of dispute

78 (1) A person who claims an interest in subject property may dispute a notice of interest by delivering a notice of dispute to the director in accordance with this section.

in the subject property, including the extent of the interest or the portion of the interest in the property, and

- (b) include the following:
 - (i) the name of the person disputing the notice of interest under this section;
 - (ii) the person's address and, if available, fax number and e-mail address;
 - (iii) prescribed information in relation to a prescribed method of delivery.

(3) A person wishing to dispute under this section must deliver the notice of dispute to the director within 14 days after the date on which the person is deemed to have received the notice given under section 76 (2) (a).

(4) For the purposes of this section, a notice of dispute that is delivered by mail is deemed to have been delivered on the date on which it was mailed.

If director receives notice of dispute

79 Within 60 days of receiving a notice of dispute under [section 78](#), the director must

- (a) do one of the following:
 - (i) commence proceedings under [section 3](#) [*application for forfeiture order*] in relation to the subject property;
 - (ii) initiate forfeiture under Part 4 [*Administrative Forfeiture of Subject Property*] in relation to the subject property;
 - (iii) withdraw the notice of interest in relation to the subject property, and
- (b) give notice to the person who delivered the notice of dispute of the action taken under paragraph (a) of this section.

Part 8 — Distribution of Proceeds

Definitions

80 In this Part and Part 9 [*General Provisions*]:

"**civil forfeiture account**" means the special account established by [section 81](#);

"**eligible victim**" means a person who

- (a) suffered pecuniary loss as a direct result of an unlawful activity that resulted in forfeiture under this Act of property or the whole or a portion of an interest in property,
- (b) did not directly or indirectly engage in the commission of the unlawful activity, and
- (c) meets the criteria prescribed under this Act.

Establishment of civil forfeiture account

Allocation of funds

82 The director must pay into the civil forfeiture account

- (a) cash forfeited to the government under this Act,
- (b) proceeds resulting from the disposition of property or the whole or a portion of an interest in property forfeited to the government under this Act, and
- (c) money paid to the government in settlement of an application or action under this Act.

Payment out of civil forfeiture account

83 (1) Subject to this Act and the regulations, the director may make payments out of the civil forfeiture account for one or more of the following purposes:

- (a) compensation of eligible victims;
- (b) prevention of unlawful activities;
- (c) remediation of the effect of unlawful activities;
- (d) administration of the Act, including, without limitation, any costs related to the preservation, management or disposition of property or the whole or a portion of an interest in property for purposes of this Act;
- (e) for the purposes of section 42 (1) [*if director receives notice of interest*];
- (f) compliance with an order of the court under section 39 (8) [*innocent failure to deliver notice of dispute*];
- (g) other prescribed purposes.

(2) The director may make payments out of the civil forfeiture account for purposes referred to in subsection (1) (g) only with the approval of the Minister of Finance.

Application for compensation

84 A person may apply, in accordance with the regulations, for compensation from the civil forfeiture account as an eligible victim.

Payment to eligible victim

- 85** (1) Subject to this Act and the regulations and on receipt of an application under [section 84](#), the director may pay an amount to an eligible victim in the circumstances and subject to the conditions and limitations that the director considers appropriate.
- (2) Despite subsection (1), the director may not pay the eligible victims of an unlawful activity a total amount that exceeds the net proceeds, as determined by the regulations, resulting from the disposition of property or the whole or a portion of an interest in property forfeited as a result of the unlawful activity.

Manner of payment

- (b) prorate payments in accordance with the regulations among eligible victims or a category of eligible victims.

Reconsideration of decision

- 87** On application to the director, or on the director's own initiative, the director may reconsider a decision under [section 85](#) or [86](#) respecting the payment of compensation or eligibility for compensation.

Repayment of excess compensation received

- 88** If an eligible victim receives from the civil forfeiture account money that is in excess of the amount awarded to the eligible victim under this Act, the eligible victim is liable to repay to the government the amount of compensation to which that eligible victim was not entitled.

Part 9 — General Provisions

If possession is unlawful

- 89** For the purposes of a proceeding under this Act, a person may not claim to have an interest in property if, under the law of Canada or British Columbia, it is unlawful for that person to possess the property.

Obligations of government on forfeiture

- 90** If property or the whole or a portion of an interest in property is forfeited under this Act, the government does not, as a result of the forfeiture, assume responsibility for any covenants, debts or other obligations under an encumbrance, a lien or another security interest to which the property or the whole or the portion of the interest in property is subject.

Limitation periods

- 91** (1) There is no limitation period for the director
- (a) commencing proceedings under [section 3](#) [*application for forfeiture order*], or
 - (b) initiating forfeiture in relation to property under Part 4 [*Administrative Forfeiture of Subject Property*].
- (2) The time limit for a person commencing an action against the government under [section 39](#) [*innocent failure to deliver notice of dispute*] is 2 years after the expiration of the dispute period under Part 4.

Rules of Court

- 92** The [Supreme Court Civil Rules](#) apply to proceedings under this Act to the extent that those rules are not in conflict with this Act.

Application of section 21 (3) of *Financial Administration Act*

Section 5 of *Offence Act* does not apply

94 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Regulations

- 95 (1) The Lieutenant Governor in Council may make regulations referred to in [section 41](#) of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) governing the giving of notice of proceedings under this Act, including service of notice and deemed service of notice and setting out the persons or classes of persons who are to be notified;
 - (b) respecting compensation of eligible victims under this Act, including the application for and the information in support of an application for compensation under this Act;
 - (c) respecting circumstances when no payment of compensation may be made to an eligible victim or a category of eligible victims;
 - (d) respecting the process for adjudication of an application for compensation and the factors to be considered in determining the amount, if any, of compensation to be awarded to an eligible victim;
 - (e) establishing circumstances when an amount is required to be deducted or set off from an amount that is to be paid under this Act to an eligible victim;
 - (f) respecting the registration under the *Personal Property Security Act* of a notice under section 32 (1) (a) [*notice of forfeiture under Part 4*] or 72 (2) [*filing notice in personal property registry*] of this Act, and the legal effect of that registration;
 - (g) respecting the disposition of
 - (i) a property forfeited or a property in which an interest in property or a portion of an interest in property is forfeited, or
 - (ii) an interest in property or a portion of an interest in property that is forfeited;
 - (h) respecting the civil forfeiture account and payments from that account;
 - (i) defining a word or expression used but not otherwise defined in this Act;
 - (j) prescribing fees that are to be paid under this Act;
 - (k) prescribing forms for the purposes of this Act;
 - (l) establishing circumstances in which the director may enter into an agreement referred to in section 67 (4) [*information-sharing agreements*];
 - (m) establishing one or more methods or formulas for determining the interest or portion of an interest in property that is equivalent in value for the purpose of the definition of "proceeds of unlawful activity";

- (o) respecting any other matter for which regulations are contemplated by this Act.
- (3) In making regulations under this section, the Lieutenant Governor in Council may do one or more of the following:
 - (a) make different regulations for different classes of persons, property, unlawful activities, circumstances or other matters;
 - (b) delegate a matter to a person;
 - (c) confer a discretion on a person.

Revision Schedule 1

Amendments to Revised Act

Editorial Note

Section(s)	Affected Act
<i>1-3</i>	<i>Civil Forfeiture Act, R.S.B.C. 2024, c. 1</i>

Commencement

- 4** This Schedule comes into force by regulation of the Lieutenant Governor in Council.

Revision Schedule 2

Consequential Amendments to Other Acts

Editorial Note

Section(s)	Affected Act
<i>1</i>	<i>Business Practices and Consumer Protection Act</i>
<i>2</i>	<i>Environmental Management Act</i>
<i>3</i>	<i>Offence Act</i>
<i>4</i>	<i>Unclaimed Property Act</i>